

Division of Workforce Development

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Tom Jones
Director

December 18, 2000

DWD Issuance 08-00

Subject: Policy Guidance on Corrective Actions/Sanction Procedures

1. Purpose: To inform recipients of standards regarding Corrective Actions/Sanctions
2. Substance: Corrective Actions/Sanctions (29 CFR 37.54(d)(2)(vii))

Any recipient who fails to comply with regulations and provisions as described in 29 CFR part 37 is subject to corrective and remedial actions designed to completely correct each violation. This action is necessary when a violation of the nondiscrimination and equal opportunity provisions of WIA is identified as a result of a discrimination complaint, a monitoring review, or both. Violations may range in seriousness from a technical violation to discrimination. Technical violations may include failure to include required language in assurances, failure to post EO notices, etc. Discrimination violations include findings of disparate treatment, disparate impact and failure to provide reasonable accommodations.

3. Action: Corrective actions are designed to end the discrimination and/or redress the specific violation(s).

Technical Violations: provisions will be allowed to correct the specific violation identified, i.e., if the violation is failing to post the required notice, the corrective action to be taken would include ensuring the notice is posted in the future. Where appropriate, the corrective action may also include educating individuals responsible for implementing this requirement.

Discrimination Violations: provisions will include making whole relief, to include where appropriate; retroactive relief (e.g. back pay, front pay, retroactive benefits, training, any service discriminatorily denied, etc.) or prospective relief (e.g. change of policy, training, development of new policy, training on policy communication).

Sanctions

When voluntary compliance to correct a violation cannot be achieved, imposition of sanctions will be considered for the non-complying recipient.

Procedures

Corrective and Remedial Action

- A. The Local Workforce Investment Area (LWIA) is provided notification of identified deficiencies and recommendation for corrective action plan.
- B. Corrective action plans are to be submitted to the State EO Officer within 30 days of receipt of notice. Training rosters and written assurances are required from the non-complying recipient regarding actions to correct violations.
- C. On-site follow-up may occur by the State EO Officer within 30 days of receipt and review of corrective action plan.
- D. The State EO Officer will send a letter of compliance notifying the LWIA that a follow-up review could occur at any time to verify the corrective action.
- E. Corrective and remedial action documentation must be copied to the Division Director.
- F. If all attempts to provide assistance and correction of deficiencies fail, the imposition of sanctions begin as described below.

Sanctions

Sanctions imposed for noncompliance will be reviewed on a case-by-case basis and may include any or all of the following:

- A. Imposition of reparation for discriminatory practices.
- B. Establishment and issuance of policies as applicable to the violation.
- C. Placement into training program or hire into a vacant position for which one may have been qualified but denied.
- D. Discontinuing referral of participants to sites against which discrimination allegations have been alleged and proven.
- E. Removal of participants from sites refusing to implement corrective actions.

Grievance Procedure

- A. In the case of noncompliance that cannot be voluntarily resolved, the grant applicant or recipient may request a hearing.
- B. This written request must be submitted to the EO Officer within 30 days of receipt of notice.
- C. Failure to request a hearing within the 30 day time frame, waives the recipients rights to a hearing.

4. Contact: If you have any questions regarding this issuance, please contact Juanita J. Davis, Designated Principal Assistant (573) 751-3193.
5. Cross/
Historical: Workforce Investment Act

Tom Jones, Director

TJ/JJD/dw

cc: John Cope
Assistant Directors
DWD Managers